

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

EURAND, INC.,

Plaintiff,

v.

HON. DAVID J. KAPPOS,¹
Under Secretary of Commerce for
Intellectual Property & Director of the
United States Patent & Trademark Office

Defendant.

Civil Action No. 08-2170(RMC)

ECF

PROPOSED ORDER

Upon consideration of the parties' Joint Notice of Consent to Vacatur of Patent Term Calculation and Remand to USPTO, the Court's February 1, 2010 Order to Show Cause, and the record herein, it is hereby **ORDERED** that stay issued in this case is lifted and that the case is hereby administratively reopened; and

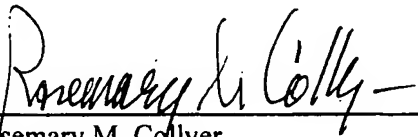
It is further **ORDERED** that plaintiff's existing patent-term calculation is hereby **VACATED**; and

It is further **ORDERED** that the matter is **REMANDED** to the United States Patent and Trademark Office for recalculation and adjustment of the disputed patent term in accordance with the decision of the United States Court of Appeals for the Federal Circuit in Wyeth & Elan Pharma

¹ Hon. David J. Kappos is automatically substituted for former Under Secretary and Director Hon. John W. Dudas. See Fed. R. Civ. P. 25(d).

Int'l Ltd. v. Kappos, __ F.3d __, 2010 WL 27184 (Fed. Cir. Jan. 7, 2010), and consistent with the USPTO's published interim procedure for such calculations. *This case is closed.*

It is **SO ORDERED** this 16 day of February, 2010.



Rosemary M. Collyer
United States District Judge